

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

UNITED STATES OF AMERICA

v.

PAUL J. MANAFORT, JR.,

Defendant.

Criminal No. 1:18-cr-00083-TSE

Trial Date: July 25, 2018

Judge T.S. Ellis, III

**SUPPLEMENTAL BRIEF IN SUPPORT OF PAUL J. MANAFORT, JR.’S MOTION
REGARDING IMPROPER DISCLOSURES RELATING TO CONFIDENTIAL GRAND
JURY INFORMATION, NON-PUBLIC INFORMATION, FALSE INFORMATION, AND
POTENTIALLY CLASSIFIED MATERIALS**

Pursuant to the Court’s directive at the June 29, 2018 motions hearing, Paul J. Manafort, Jr., by and through counsel, hereby submits this supplemental brief in support of his motion to require a hearing regarding improper disclosures relating to confidential grand jury information and potentially classified information (Doc. 43, “Motion for a Leaks Investigation”).

I. UNAUTHORIZED GOVERNMENT LEAKS TO THE MEDIA HAVE SEVERELY
PREJUDICED MR. MANAFORT’S CONSTITUTIONAL RIGHT TO A FAIR
TRIAL BY AN UNBIASED JURY

The days of individuals getting their information from newspapers or nightly news are long gone. U.S. Citizens are inundated “24/7” in a never-ending news cycle. This cycle has been particularly damaging to Mr. Manafort as he prepares to defend himself in two separate criminal cases. The negative impact, however, has been exacerbated by government leaks of non-public information, potentially classified information, and false information to the media. The

Department of Justice Inspector General's (the "IG") report reviewing the actions of the Department of Justice and Federal Bureau of Investigation (the "FBI") in advance of the 2016 presidential election found a pattern of unauthorized leaks of non-public information from all levels of the FBI to the media. The IG also found instances in which FBI employees—in violation of FBI rules and regulations—accepted benefits from reporters, including tickets to sporting events, golf outings, drinks, meals, and invitations to social events. The IG stated that "we have profound concerns about the volume and extent of unauthorized media contacts by FBI personnel that we have uncovered during our review." (IG Report at 429.)

On January 23, 2018 and again on February 21, 2018, (*see* Exhibits A and B) Mr. Manafort's defense team sent letters to the Office of Special Counsel ("OSC") requesting information regarding contacts between the government, including members of the prosecution team or the OSC, and the media. No information was provided with respect to Mr. Manafort's request until last Friday, in anticipation of this Court's hearing about potential governments leaks to the media. The OSC produced two FBI electronic communications regarding an April 11, 2017, meeting between prosecutors from the Department of Justice, supervisory special agents, special agents from the FBI International Corruption Unit, and reporters for the Associated Press.

During the hearing, Special Agent Jeffrey Pfeiffer provided limited testimony based upon his recollection of the meeting. In referring to his notes concerning statements made by government officials to the Associated Press reporters, Special Agent Pfeiffer had no present recollection. (Tr. of June 29, 2018 Motions Hearing at 35). Indeed, he was asked if he recalled "at the conclusion of the meeting, the AP reporters asked if we would be willing to tell them if they were off base or on the wrong track, and they were advised that they appear to have a good

understanding of Manafort's business dealings." (*Id.* at 34–35.) Agent Pfeiffer said he had no recollection of that being said. (*Id.*)

However, based on documents provided only last Friday at the Court's hearing, also present at the April 11 meeting was Supervisory Special Agent ("SSA") Karen Greenaway, who also prepared an electronic communication ("EC") relating to the substance of that meeting (*see* Exhibit C). SSA's Greenaway's EC is considerably more detailed than Special Agent Pfeiffer's EC and it also includes specific DOJ statements to the AP reporters that are not contained in Agent Pfeiffer's EC (*see* Exhibit D):

- The meeting was arranged by Andrew Weissmann;
- Andrew Weissmann directed the AP reporters to ask the Cypriot Anti-Money Laundering Authority ("MOKAS") if they had provided the U.S. Department of Treasury with everything to which they had access or only provided what they were legally required to provide;
- When the AP reporters inquired about FARA (Foreign Agents Registration Act) violations, DOJ attendees confirmed that they were prosecutable; and
- When the AP reporters asked if DOJ would tell them if they were off base or on the wrong track, government attendees confirmed that the AP reporters appeared to have a good understanding of Manafort's business dealings in Ukraine.

Special Agent Pfeiffer confirmed that there was an ongoing investigation of Mr. Manafort, and the OSC has previously confirmed that at the time of the AP meeting there was an ongoing grand jury investigation of Mr. Manafort in the Eastern District of Virginia. In light of the existence of an ongoing grand jury investigation and the highly unusual nature of this meeting between DOJ and reporters, it is not surprising that it has been reported that the FBI filed a

complaint about DOJ's disclosures to the AP reporters.¹ The import of the DOJ statements noted above was to confirm the existence of an investigation, that a Mutual Legal Assistance Treaty request was made to Cypriot authorities and that the information to be reported by the AP reporters was accurate. The meeting raises serious concerns about whether a violation of grand jury secrecy occurred. Before last week's hearing and the OSC's production of these records, there was a substantial basis to request a hearing based on press reports and a formal request for information to DOJ by the House Intelligence Committee. Now, based on the FBI's own notes of the meeting, it is beyond question that a hearing is warranted. Before requiring a hearing, this Court should order DOJ to turn over all communications and notes of the meeting as well as any internal complaints filed with respect to the same. Further, Mr. Manafort requests consistent with his constitutional right to confront the government, that the court disclose all ex parte government communications concerning this matter. After such review is performed, an informed decision can be made as to what improper disclosures were made to the AP reporters, if any, who made them, and what sanctions are appropriate.

WHEREFORE, Mr. Manafort respectfully submits this supplemental brief in support of his Motion with respect to government leaks to the media.

Dated: July 6, 2018

Respectfully submitted,

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¹ See *Attorney for FBI Informant Presses DOJ for Leak Investigation*, Sara Carter (Feb. 21, 2018), <https://saraacarter.com/attorney-fbi-informant-presses-doj-leak-investigation/>.

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CERTIFICATE OF SERVICE

I hereby certify that on the 6th day of July, 2018, I will electronically file the foregoing with the Clerk of Court using the CM/ECF system, which will then send a notification of such filing (NEF) to the following:

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